

REMARKS

Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow. At the time of the outstanding Office Action, claims 1-14 were pending. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

Prior Art Rejections:

In the Office Action, claims 1, 3, 5, 7, 9-11 and 13 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Japanese Patent Application Publication 2001-177624 to Fujii Nobuyuki (hereinafter “Fujii”) in view of U.S. Patent Application Publication 2002/0019851 to Pollack et al. (hereinafter “Pollack”). Claims 2, 4, 6, 8, 12 and 14 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Fujii and Pollack in view of Official Notice. Applicant respectfully traverses these rejections for at least the following reasons.

The instant invention deals with a memory information backup method and system for cell phones. Specifically, independent claim 1 recites a backup system wherein “said terminal comprises instruction mail creating means for creating, as backup instruction mail, electronic mail having information for instructing to perform backup stored in a header portion.” Thus, a terminal sends a backup instruction mail message to a phone having information in the header portion of the message that instructs the phone to perform backup operations. Independent claims 9 and 10 recite an analogous feature.

Claims 1, 3, 4, 5, 7, 9-11 and 13 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Fujii in view of Pollack. The Examiner relies on the Abstract of Fujii, which is a foreign language reference, to reject the claims in the Office Action. Applicants would like to note that a translation of the reference is available on the Japanese Patent Office’s website. Although it may not be a perfect translation of the reference, Applicants utilized this translation of Fujii to gain a better understanding of the reference and its applicability.

Applicants respectfully submit that Fujii fails to teach or disclose a backup system wherein “said terminal comprises instruction mail creating means for creating, as backup instruction mail, electronic mail having information for instructing to perform backup stored in a header portion.” The Examiner responded to this assertion in the Response to Arguments section of the outstanding Office Action, asserting that the title of the invention is called “Method and System for Backing up Data on Phone Directory Information in Portable Telephone Set.” (page 2, paragraph 2 of the Response to Arguments). However, the title of the invention provides no teaching or disclosure that a terminal creates electronic mail with instructions in its header to perform backup. The Examiner further utilizes the Abstract of Fujii to teach this feature, asserting that Fujii teaches that phone directory is included in an electronic mail from the phone to the data center. However, including a phone directory in an email to the data center is not equivalent to having the data center create an email with backup instructions in its header. Thus, Applicants submit that the Examiner’s arguments are not relevant with regards to the claimed features in contention.

In his rejection of this feature of the invention as claimed, the Examiner asserts that “mail directory is transmitted for backup via email” as described in the Abstract is equivalent to “said terminal comprises instruction mail creating means for creating, as backup instruction mail, electronic mail having information for instructing to perform backup stored in a header portion.” Applicants respectfully submit that the invention as claimed requires more than just transmitting a mail directory for backup. Rather, the invention as claimed requires that the data terminal send an email with backup instructions in its header to the mobile terminal, to instruct it to backup its data.

Applicants further submit that perusal of the Fujii translation also fails to show any teaching or disclosure of this feature. In paragraph 0026 of the translation, Fujii teaches that a control section 11 of the personal digital assistant 1 will display a menu screen that allows a user to choose to backup the data. This is in contrast to the invention as claimed, in which the mobile phone receives instruction mail from the terminal instructing it to backup its information. Thus, Applicants respectfully submit that Fujii fails to teach this feature of the invention as claimed.

Pollack fails to make up for the deficiencies of Fujii as noted. Pollack does not teach or suggest a backup system wherein “said terminal comprises instruction mail creating means for creating, as backup instruction mail, electronic mail having information for instructing to perform backup stored in a header portion.” Rather, Pollack teaches that a mobile device can send emails with authentication, file identification, and commands of how to deal with the identified file. These emails are sent from the mobile device, such as a wireless palm device, to a server that then executes the command. (See Examples given from paragraph 0073 – 104. Further, see also Figure 9 and paragraphs 0046 – 0062.) This is the same approach utilized by Fujii, in that the mobile device sends instruction mail to the server. There is no teaching or indication in Pollack that the server would send instruction mail to the mobile device, let alone send instruction mail for creating, as backup instruction mail, electronic mail with information to instruct to perform backup, stored in the header portion of the electronic mail. Thus, Pollack fails to disclose the ability to create and send instruction mail from a terminal to a cell phone that stores instructions pertaining to the contents of the electronic mail in the header of the electronic mail. Thus, even if the teachings of Pollack were combined with those of Fujii, the features of the instant invention would be lacking.

As shown, neither Fujii nor Pollack teaches or discloses all of the features of the independent claim, specifically failing to teach a backup system wherein “said terminal comprises instruction mail creating means for creating, as backup instruction mail, electronic mail having information for instructing to perform backup stored in a header portion.” Thus, Fujii and Pollack, either alone or in any combination thereof, would also fail to teach all of the limitations of the independent claims. If this rejection is maintained, the examiner is respectfully requested to point out where this feature are disclosed in either Fujii or Pollack.

The dependent claims are also patentable for at least the same reasons as the independent claims on which they ultimately depend. In addition, they recite additional patentable features when considered as a whole. As mentioned above, Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as presented is respectfully requested.

Claim 4 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Fujii in view of Pollack. The Examiner takes Official Notice that backup systems with backup schedule

tables are obvious modifications that would be readily recognized by a person of ordinary skill in the art. Even if this Official Notice were to be considered, it would not make up for the deficiencies of Fujii and Pollack as shown above. The combination of Official Notice with Fujii and Pollack would not teach a backup system wherein “said terminal comprises instruction mail creating means for creating, as backup instruction mail, electronic mail having information for instructing to perform backup stored in a header portion.” Thus, this rejection is respectfully traversed.

Claims 2, 6, 8, 12 and 14 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Fujii in view of Pollack. The Examiner takes Official Notice that notification messages and other features of the invention as claimed in the aforementioned dependent claims are obvious modifications that would be readily recognized by a person of ordinary skill in the art. Even if this Official Notice were to be considered, it would not make up for the deficiencies of Fujii and Pollack as shown above. The combination of Official Notice with Fujii and Pollack would not teach a backup system wherein “said terminal comprises instruction mail creating means for creating, as backup instruction mail, electronic mail having information for instructing to perform backup stored in a header portion.” Thus, this rejection is respectfully traversed.

Conclusion:

Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.


The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check or credit card payment form being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for

such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

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FOLEY & LARDNER LLP
Customer Number: 22428
Telephone: (202) 945-6014
Facsimile: (202) 672-5399

By 

George C. Beck
Attorney for Applicant
Registration No. 38,072

Ramya Ananthanarayanan
Agent for Applicant
Registration No. 59,597